

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT BECKLEY**

JAMES RIVER EQUIPMENT VIRGINIA, LLC,

Plaintiff,

vs.

Civil Action No. 5:13-cv-28160

JUSTICE ENERGY COMPANY, INC.,

Defendant.

**SECOND STATUS REPORT OF THE UNITED STATES OF AMERICA
PURSUANT TO COURT'S ORDER OF DECEMBER 7, 2018 (ECF NO. 111)
AND REQUEST FOR LEAVE TO DEPOSE EMPLOYEES AND
REPRESENTATIVES OF JUSTICE ENERGY COMPANY, INC., AND TO
DISCOVER AND COMPEL PRODUCTION OF FINANCIAL INFORMATION**

Counsel for the United States of America has contacted counsel for Justice Energy Company, Inc., regarding the status of the payment of the civil contempt sanction imposed by the Court upon Justice Energy Company, Inc., which was affirmed by the United States Court of Appeals for the Fourth Circuit. No payment has yet been made by the defendant to satisfy the civil contempt sanction imposed by the Court.

Counsel for the United States sent a letter and a request for financial information to counsel for Justice Energy Company, Inc., on November 28, 2018 (attached as Exhibit A). The request allowed Justice Energy Company, Inc., ten business days to furnish the requested financial information. However, Justice Energy Company, Inc., did not and has not furnished the requested financial information. Accordingly, the United States respectfully requests that the Court grant the United States leave to depose employees and representatives of Justice Energy Company, Inc., and to discover and compel the production of financial information so that the

United States can proceed to find and locate potential financial assets to satisfy the civil contempt sanction imposed by the Court in this civil action.

Respectfully submitted,

MICHAEL B. STUART
United States Attorney

s/Fred B. Westfall, Jr.
WV State Bar No. 3992
Assistant United States Attorney
Attorney for United States
P.O. Box 1713
Charleston, WV 25326
Phone: 304-345-2200
Fax: 304-347-5443
E-mail: fred.westfall@usdoj.gov

CERTIFICATE OF SERVICE

I, Fred B. Westfall, Jr., Assistant United States Attorney for the Southern District of West Virginia, hereby certify that on December 21, 2018, I electronically filed the foregoing **SECOND STATUS REPORT OF THE UNITED STATES OF AMERICA PURSUANT TO COURT'S ORDER OF DECEMBER 7, 2018 (ECF NO. 111) AND REQUEST FOR LEAVE TO DEPOSE EMPLOYEES AND REPRESENTATIVES OF JUSTICE ENERGY COMPANY, INC., AND TO DISCOVER AND COMPEL PRODUCTION OF FINANCIAL INFORMATION** with the Clerk of the Court using the CM/ECF system which will send notification to the following CM/ECF participants:

Andrew L. Ellis
John F. Hussell, IV
Wooton, Davis, Hussell & Ellis, PLLC
P. O. Box 3971
Charleston, WV 25339
Counsel for Defendant Justice Energy Company, Inc.

s/Fred B. Westfall, Jr.
WV State Bar No. 3992
Assistant United States Attorney
P.O. Box 1713, Charleston, WV 25326
Phone: 304-345-2200
Fax: 304-347-5443
E-mail: fred.westfall@usdoj.gov

EXHIBIT A



United States Department of Justice

*United States Attorney
Southern District of West Virginia*

*Robert C. Byrd United States Courthouse
300 Virginia Street, East, Suite 4000
Charleston, WV 25301
Telephone: 304-345-2200*

*Post Office Box 1713
Charleston, WV 25326
FAX: 304-347-5443
1-800-659-8726*

November 28, 2018

Andrew L. Ellis
John F. Hussell, IV
John D. (Jody) Wooton, Jr.
Wooton, Davis, Hussell & Ellis, PLLC
P. O. Box 3971
Charleston, WV 25339

Re: James River Equipment Virginia, LLC v. Justice Energy Company, Inc.
Civil Action: 5:13-cv-28160 (S.D.W.Va.)

Dear Messrs. Ellis, Hussell, and Wooton:

The United States District Court for the Southern District of West Virginia ("Court") has imposed sanctions against Justice Energy Company, Inc., in the above matter in the amount of \$1,230,000. Those sanctions have been affirmed by the United States Court of Appeals for the Fourth Circuit. Justice Energy Company, Inc., has yet to pay the sanctions imposed by the Court.

Based on my conversation with you, as counsel for Justice Energy Company, Inc., there was some suggestion that Justice Energy Company, Inc., may not have the financial resources to pay the sanctions imposed by the Court. As a result, I am enclosing a Financial Statement For Business which requires Justice Energy Company, Inc., to furnish certain information so that the United States can evaluate Justice Energy Company, Inc.'s ability to pay the sanctions imposed by the Court.

Please read the Financial Statement For Business carefully and supply the requested information. The Financial Statement For Business must be completed by the appropriate official of Justice Energy Company, Inc. Please note that making false statements in the completion of the Financial Statement For Business is punishable by imprisonment and/or a fine under 18 U.S.C. § 1001.


I need the completed Financial Statement For Business to be returned to our office in ten business days. If Justice Energy Company, Inc., needs additional time to complete the Financial Statement For Business, please contact me so that we can discuss an appropriate extension. Justice Energy Company, Inc., should have the requested information readily available. I would anticipate that any needed extension would be brief in duration.

Messrs. Ellis, Hussell & Wooton
November 28, 2018
Page 2

If you have any questions concerning the enclosed Financial Statement For Business, please do not hesitate to call me.

Sincerely,

MICHAEL B. STUART
United States Attorney

By: 
Fred B. Westfall, Jr.
Assistant United States Attorney

FBW/fbwjr

Enclosure



U.S. Department of Justice
Financial Statement of Debtor
(Submitted for Government Action on
Claims Due the United States)

NOTE: Use additional sheets where space on this form
is insufficient or continue on back of last page.

FINANCIAL STATEMENT FOR BUSINESS

Authority for the solicitation of the requested information is one or more of the following: 5 U.S.C. 301, 901 (see Note, Executive Order 6166, June 10, 1933); 28 U.S.C. 501, *et seq.*; 31 U.S.C. 951, *et seq.*; 44 U.S.C. 3101; 4 CFR 101, *et seq.*; 28 CFR 0.160, 0.171 and Appendix to Subpart Y. Fed.R.Civ.P. 33(a), 28 U.S.C. 1651, 3201 *et seq.*

The principal purpose for gathering this information is to evaluate your ability to pay the Government's claim or judgment against you. Routine uses of the information are established in the following U.S. Department of Justice Case File Systems published in Vol. 42 of the Federal Register; Justice/CIV-001 at page 5332; Justice/TAX-001 at page 15347; Justice/USA-005 at pages 53406-53407; Justice/USA-007 at pages 53408-53410; Justice/CRIM-016 at page 12274. Disclosure of the information is voluntary. If the requested information is not furnished, the U.S. Department of Justice has the right to such disclosure of the information by legal methods.

Section 1

Business
Information

1. Business Name _____	3. Contact Name _____
Street Address _____	3a. Contact's Business Telephone (____) _____
City _____ State _____ Zip _____	Extension _____
County _____	Best Time To Call _____ a.m. _____ p.m.
1a. Business Telephone (____) _____	3b. Contact's Home Telephone (____) _____
2a. Type of entity: (check one)	Best Time To Call _____ a.m. _____ p.m.
<input type="checkbox"/> Partnership <input type="checkbox"/> Corporation <input type="checkbox"/> Other _____	3c. Contact's Other Telephone (____) _____
2b. Type of Business _____	Telephone Type (i.e. cellular, pager) _____
2c. Other names that the business uses _____	3d. Contact's E-mail _____

Section 2

Business
Personnel
and

4. PERSON RESPONSIBLE FOR DEPOSITING PAYROLL TAXES

4a. Full Name _____ Title _____	Social Security Number _____
Home Street Address _____	Home Telephone (____) _____
City _____ State _____ Zip _____	Ownership Percentage & Shares or Interest _____

5. PARTNERS, OFFICERS, MAJOR SHAREHOLDERS, ETC.

5a. Full Name _____ Title _____	Social Security Number _____
Home Street Address _____	Home Telephone (____) _____
City _____ State _____ Zip _____	Ownership Percentage & Shares or Interest _____

5b. Full Name _____ Title _____	Social Security Number _____
Home Street Address _____	Home Telephone (____) _____
City _____ State _____ Zip _____	Ownership Percentage & Shares or Interest _____

5c. Full Name _____ Title _____	Social Security Number _____
Home Street Address _____	Home Telephone (____) _____
City _____ State _____ Zip _____	Ownership Percentage & Shares or Interest _____

5d. Full Name _____ Title _____	Social Security Number _____
Home Street Address _____	Home Telephone (____) _____
City _____ State _____ Zip _____	Ownership Percentage & Shares or Interest _____

Section 3

Accounts/
Notes
Receivable

6. ACCOUNTS/NOTES RECEIVABLE. List all contracts separately, including contracts awarded, but not yet started.

	Description	Amount Due	Date Due	Age of Account
6a.	Name _____	\$ _____	_____	<input type="checkbox"/> 0-30 days
	Street Address _____			<input type="checkbox"/> 30-60 days
	City/State/Zip _____			<input type="checkbox"/> 60-90 days
				<input type="checkbox"/> 90+ days

Business Name _____ EIN _____

Page 2

Section 3

continued

If additional
space is needed
use separate
sheet.

6b.	Name _____ Street Address _____ City/State/Zip _____	\$ _____	<input type="checkbox"/> 0-30 days <input type="checkbox"/> 30-60 days <input type="checkbox"/> 60-90 days <input type="checkbox"/> 90+ days
6c.	Name _____ Street Address _____ City/State/Zip _____	\$ _____	<input type="checkbox"/> 0-30 days <input type="checkbox"/> 30-60 days <input type="checkbox"/> 60-90 days <input type="checkbox"/> 90+ days
6d.	Name _____ Street Address _____ City/State/Zip _____	\$ _____	<input type="checkbox"/> 0-30 days <input type="checkbox"/> 30-60 days <input type="checkbox"/> 60-90 days <input type="checkbox"/> 90+ days
6e.	Name _____ Street Address _____ City/State/Zip _____	\$ _____	<input type="checkbox"/> 0-30 days <input type="checkbox"/> 30-60 days <input type="checkbox"/> 60-90 days <input type="checkbox"/> 90+ days
6f.	Name _____ Street Address _____ City/State/Zip _____	\$ _____	<input type="checkbox"/> 0-30 days <input type="checkbox"/> 30-60 days <input type="checkbox"/> 60-90 days <input type="checkbox"/> 90+ days
6g.	Name _____ Street Address _____ City/State/Zip _____	\$ _____	<input type="checkbox"/> 0-30 days <input type="checkbox"/> 30-60 days <input type="checkbox"/> 60-90 days <input type="checkbox"/> 90+ days
6h.	Name _____ Street Address _____ City/State/Zip _____	\$ _____	<input type="checkbox"/> 0-30 days <input type="checkbox"/> 30-60 days <input type="checkbox"/> 60-90 days <input type="checkbox"/> 90+ days
6i.	Name _____ Street Address _____ City/State/Zip _____	\$ _____	<input type="checkbox"/> 0-30 days <input type="checkbox"/> 30-60 days <input type="checkbox"/> 60-90 days <input type="checkbox"/> 90+ days
6j.	Name _____ Street Address _____ City/State/Zip _____	\$ _____	<input type="checkbox"/> 0-30 days <input type="checkbox"/> 30-60 days <input type="checkbox"/> 60-90 days <input type="checkbox"/> 90+ days
6k.	Name _____ Street Address _____ City/State/Zip _____	\$ _____	<input type="checkbox"/> 0-30 days <input type="checkbox"/> 30-60 days <input type="checkbox"/> 60-90 days <input type="checkbox"/> 90+ days

6a + 6k = 6l \$ _____
 Amount from
 any separate sheet + \$ _____

**Total Accounts/
 Notes Receivable \$ _____**

Business Name _____ EIN _____

Page 3

Section 4**Other
Financial
Information****7. OTHER FINANCIAL INFORMATION:** Respond to the following business questions.

7a. Does this business have other business relationships (e.g. subsidiary or parent, corporation, partnership etc)?

☐ No ☐ Yes, list EIN _____ Additional EIN _____

7b. Does anyone (e.g. officer, stockholder, partner or employees) have an outstanding loan from the business?

☐ No ☐ Yes, amount \$ _____ Date of loan _____ Current Balance \$ _____7c. Are there any judgments or liens against your business? ☐ No ☐ Yes, who is creditor? _____

Date of Judgment/Lien _____ Amount of Debt \$ _____

7d. Is your business a party in a lawsuit?

☐ No ☐ Yes, amount of suit \$ _____ Possible completion date _____
Subject matter of suit _____ Court filed in _____

7e. Has your business ever filed bankruptcy?

☐ No ☐ Yes, date filed _____ Date discharged _____ Case No. _____

7f. In the past 10 years, have you transferred any assets from your business name for less than their actual value?

☐ No ☐ Yes, what asset _____ Value at time of transfer _____
When was it transferred _____ To whom was it transferred _____

7g. Do you anticipate any increase in business income (e.g. contracts bid on but not yet awarded)

☐ No ☐ Yes, why the increase _____
How much will it increase _____ When will it increase _____

7h. Is your business a beneficiary of a trust, an estate or a life insurance policy?

☐ No ☐ Yes, name of trust, estate or policy _____
Anticipated amount to be received _____ When to be received _____**Section 5****Business
Assets***Indicate
the amount
you could
sell the asset
for today.**8. PURCHASED AUTOMOBILES, TRUCKS AND OTHER LICENSED ASSETS.** Include boats, RV's, etc.

	<u>Description</u>	<u>Current Value*</u>	<u>Loan Balance</u>	<u>Name of Lender</u>	<u>Purchase Price</u>	<u>Monthly Pynt</u>
8a.	Year _____ Make _____ Model _____	\$ _____	\$ _____	_____	\$ _____	\$ _____
8b.	Year _____ Make _____ Model _____	\$ _____	\$ _____	_____	\$ _____	\$ _____
8c.	Year _____ Make _____ Model _____	\$ _____	\$ _____	_____	\$ _____	\$ _____

9. LEASED AUTOMOBILES, TRUCKS AND OTHER LICENSED ASSETS. Include boats, RV's, etc.

	<u>Description</u>	<u>Lease Balance</u>	<u>Name of Lessor</u>	<u>Lease Date</u>	<u>Monthly Payment</u>
9a.	Year _____ Make _____ Model _____	\$ _____	_____	_____	\$ _____
9b.	Year _____ Make _____ Model _____	\$ _____	_____	_____	\$ _____


**ATTACHMENTS REQUIRED:** Please provide your current statement from lender with monthly payment amount and current balance of the loan for each vehicle purchased or leased.

Business Name _____ EIN _____

Page 4


Section 5
continued**10. REAL ESTATE.** List all real estate owned by the business. (If you need additional space, use a separate sheet.)

<u>Street Address, City State, Zip, County</u>	<u>Date Purchased</u>	<u>Purchase Price</u>	<u>Current Value*</u>	<u>Loan Balance</u>	<u>Lender/ Lien Holder</u>	<u>Monthly Payment</u>
10a. _____ _____		\$ _____	\$ _____	\$ _____		\$ _____
10b. _____ _____		\$ _____	\$ _____	\$ _____		\$ _____

 **ATTACHMENTS REQUIRED:** Please provide your current statement from lender with monthly payment amount and current balance for each piece of real estate owned.

11. BUSINESS ASSETS. List all business assets and encumbrances below, include Uniform Commercial Code filings. (If you need additional space, use a separate sheet.) Note: If attaching a depreciation schedule, the attachment must include all of the information requested below.

<u>Description</u>	<u>Current Value*</u>	<u>Loan Balance</u>	<u>Lender</u>	<u>Monthly Payment</u>
11a. Machinery	\$ _____	\$ _____		\$ _____
	\$ _____	\$ _____		\$ _____
	\$ _____	\$ _____		\$ _____
	\$ _____	\$ _____		\$ _____
Equipment	\$ _____	\$ _____		\$ _____
	\$ _____	\$ _____		\$ _____
	\$ _____	\$ _____		\$ _____
Merchandise	\$ _____	\$ _____		\$ _____
<u>Other Assets: (List below)</u>				
11b. _____	\$ _____	\$ _____		\$ _____
11c. _____	\$ _____	\$ _____		\$ _____

 **ATTACHMENTS REQUIRED:** Please provide your current statement from lender with monthly payment amount and current balance for assets listed which have an encumbrance.

Section 6**12. INVESTMENTS.** List all investment assets below. Include stocks, bonds, mutual funds, stock options, etc.

<u>Investment, Banking and Cash Information</u>	<u>Name of Company</u>	<u>Number of Shares/Units</u>	<u>Current Value</u>	<u>Loan Amount</u>	<u>Used as collateral on a loan?</u>
12a.	_____	_____	\$ _____	\$ _____	<input type="checkbox"/> No <input type="checkbox"/> Yes
12b.	_____	_____	\$ _____	\$ _____	<input type="checkbox"/> No <input type="checkbox"/> Yes
12c. Total Investments				\$ _____	

Business Name _____ EIN _____

Page 5

Section 6
continued**13. BANK ACCOUNTS.** List checking and savings accounts. (If you need additional space, use a separate sheet.)

	<u>Type of Account</u>	<u>Full name of Bank, Credit Union or Institution</u>	<u>Bank Account No.</u>	<u>Current Account Balance</u>
13a.	_____	Name _____ Address _____ City/State/Zip _____	_____	\$ _____
13b.	_____	Name _____ Address _____ City/State/Zip _____	_____	\$ _____

13c. Total Other Account Balances

\$ _____

**ATTACHMENTS REQUIRED:** Please include your current bank statements (checking and savings) for the past **3 months** for **all** accounts.**14. OTHER ACCOUNTS.** List all accounts including brokerage accounts, money market, additional checking, and savings accounts, etc. not listed on line #13.

	<u>Type of Account</u>	<u>Full name of Bank, Credit Union or Institution</u>	<u>Bank Account No.</u>	<u>Current Account Balance</u>
14a.	_____	Name _____ Address _____ City/State/Zip _____	_____	\$ _____
14b.	_____	Name _____ Address _____ City/State/Zip _____	_____	\$ _____

14c. Total Other Accounts

\$ _____

**ATTACHMENTS REQUIRED:** Please include your current bank statements for the past **3 months** for **all** accounts.**15. CASH ON HAND.** Include any money that you have that is not in the bank.**15a. Total Cash on Hand**

\$ _____

16. AVAILABLE CREDIT. List all lines of credit, including credit cards.

	<u>Full Name of Credit Institution</u>	<u>Credit Limit</u>	<u>Amount Owed</u>	<u>Minimum Payment</u>
16a.	Name _____ Address _____ City/State/Zip _____	_____	_____	\$ _____
16b.	Name _____ Address _____ City/State/Zip _____	_____	_____	\$ _____

16c. Total Minimum Payments

\$ _____

Name _____

SSN _____

Page 6

Section 7
Monthly
Income and
Expenses

17. The following information applies to income and expenses from your most recently filed Form 1120 or Form 1065. Fiscal Year Period _____ to _____.

18. Accounting Method used: ☐ Cash ☐ Accrual**The information included on lines 19 through 39 should reconcile to your business federal tax return.****Total Income**

<u>Source</u>	<u>Gross monthly</u>
19. Gross Receipts	\$ _____
20. Gross Rental Income	_____
21. Interest	_____
22. Dividends	_____
Other Income (lines 23-25)	_____
23. _____	_____
24. _____	_____
25. _____	_____
26. Total Income (19-25)	\$ _____

Total Living Expenses

<u>Expense Items</u>	<u>Actual Monthly</u>
27. Materials Purchased	\$ _____
28. Inventory Purchased	_____
29. Gross Wages & Salaries	_____
30. Rent	_____
31. Supplies	_____
32. Utilities/Telephone	_____
33. Vehicle Gasoline/Oil	_____
34. Repairs/Maintenance	_____
35. Insurance	_____
36. Current Taxes	_____
Other Expenses (lines 37-38)	_____
37. _____	_____
38. _____	_____
39. Total Expenses (27-38)	\$ _____

**ATTACHMENTS REQUIRED:** Please include proof of all current expenses that you paid for the last 3 months, including utilities, rent, insurance, property taxes, etc.**CERTIFICATION**

I declare that I have examined the information given in this statement and, to the best of my knowledge and belief, it is true, correct, and complete, and I further declare that I have no assets, owned either directly or indirectly, or income of any nature other than as shown in this statement, including any attachment.

Signature _____

Social Security No. _____

Date _____

Title _____

WARNING**False statements are punishable up to five years imprisonment, a fine of \$250,000, or both pursuant to 18 U.S.C. §1001.**